

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1092 - SB 1453

April 1, 2011

SUMMARY OF BILL: Establishes a judicial process for the court to order a person to receive assisted outpatient mental health treatment under certain conditions. The proposed patient has a right to be represented by an attorney at all stages of the court proceedings. The application to the court must be accompanied by an affidavit of a licensed physician and a written proposed treatment plan. The court may order the proposed patient to receive assisted outpatient treatment for an initial period of no more than six months. Requires the Department of Mental Health, in consultation with the Administrative Office of the Courts (AOC), to prepare educational and training materials for local government units, providers of services, judges, court personnel, law enforcement officials, and the general public. The Department shall establish a training program for supreme and county court judges and court personnel. The bill will become effective January 1, 2012.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures –

Net Impact - \$3,566,000/FY11-12/General Fund
Net Impact - \$7,132,000/FY12-13/General Fund
Net Impact - \$7,336,700/FY13-14/General Fund
Net Impact - \$2,999,300/FY14-15 and Subsequent Years/General Fund
\$14,300/FY11-12/Indigent Defense Fund
\$28,600/FY12-13/Indigent Defense Fund
\$31,500/FY13-14/Indigent Defense Fund
\$16,200/FY14-15 and Subsequent Years/Indigent Defense Fund

Other Fiscal Impact – There will be an estimated savings in the Behavior Health Safety Net program of \$131,500 in FY11-12, \$262,900 in FY12-13, \$290,200 in FY13-14 and \$148,800 in FY14-15 and subsequent years. These savings will not result in a decrease in expenditures, but will be used to fund services to uninsured individuals who are currently not being served.

Assumptions:

- According to the Department of Mental Health (DMH), there will be approximately 1,351 applicants in the first full year that will receive an evaluation. This number will likely increase in the second full year to 1,492 applicants, but will average to approximately 765 annually in the out years.

- Each evaluation will cost approximately \$250 resulting in an increase in state expenditures in year one of \$337,750 (1,351 applicants x \$250). In year two, the increase in state expenditures will be \$373,000 (1,492 applicants x \$250) and \$191,250 (765 applicants x \$250) in year three and subsequent years. According to DMH, evaluations do not usually qualify as medically necessary, therefore all expenditures will be state funded.
- According to DMH, the initial court-ordered length of treatment will differ among patients as well as the number of renewals and the length of renewals. After adjusting for the length-of-stay, it is estimated that 500 evaluations in the first year, 760 evaluations in the second year, and 390 evaluations in the out years will receive assisted outpatient treatment.
- A program of assertive community treatment (PACT) costs approximately \$1,600 per month per patient. There will be an increase in state expenditures of \$4,800,000 (500 patients x \$1,600 x 6 months) in year one. The increase in state expenditures in year two will be \$7,296,000 (760 patients x \$1,600 x 6 months) and \$3,744,000 (390 patients x \$1,600 x 6 months) in the third and subsequent years.
- Approximately 25 percent of these costs will be reimbursed to the community mental health agencies through private health insurance, private parties, Medicare, and other resources resulting in a net increase in state expenditures of \$3,600,000 (\$4,800,000 x 75%) in year one, \$5,472,000 (\$7,296,000 x 75%) in year two, and \$2,808,000 (\$3,744,000 x 75%) in the third and subsequent years.
- According to DMH, there are currently only two PACT programs statewide that will not be sufficient to handle the additional caseload. There will be necessary start-up costs associated with creating the new programs and increasing the capacity of the existing programs through facility, personnel, and resource expansions. The start-up costs in year one are estimated to be \$3,194,200 and \$1,491,700 in year two.
- There will be some cost savings. According to DMH, the majority of applicants will come from inpatient psychiatric hospitals as part of discharge planning. The Department estimates that there will be savings by reducing the number of individuals referred to the behavioral health safety net programs. DMH estimates that there could be savings up to \$262,900 in year one, \$290,200 in year two, and \$148,800 in the third and subsequent years. These savings will be used to meet the current unfilled demands of the safety net programs for the uninsured and will result in more people receiving treatment.
- According to the AOC, there will be an increase in the caseloads in the court system which will result in additional state and local government expenditures for processing the cases and additional state and local government revenue from fees, taxes and costs collected. These expenditures and revenue are estimated to be not significant.
- It is estimated that a portion of these applicants will have counsel appointed to them. These appointed attorneys will be paid out of the Indigent Defense Fund. While an exact number of individuals that will need representation is not known, it is assumed that 35 percent of the total number of applicants will have an attorney appointed to them.
- According to the AOC, the average judicial hospitalization attorney fee claim was \$60.41 in FY09-10.
- It is estimated that the increase in state expenditures from the Indigent Defense Fund will be \$28,564.87 (1,351 applicants x 35% x \$60.41) in year one, \$31,546.10 (1,492

applicants x 35% x \$60.41) in year two, and \$16,175.78 (765 applicants x 35% x \$60.41) in the third and subsequent years.

- Due to the effective date of January 1, 2012, the estimated fiscal impact for FY11-12 is one-half of the estimated impact for the first full year.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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